

Remarks

Claim 7, indicated to be directed to allowable subject matter, has been rewritten in independent form as new claim 12, without change of scope. Claim 12 is thus assumed to be allowable as now presented.

Claim 10 has been amended to obviate the objection noted by the Examiner.

Claim 1 (and thus by dependency claims 2-6 and 8-11) has been amended to clarify significant distinctions over the prior art, and reconsideration is requested of the claims as now presented.

The applicant's invention is directed to a parts container for a multipart construction toy set, and includes novel features adapting the container to serve as a "sweeper box" to facilitate clean up of the individual component parts at the end of a play session. The claim calls for an access cover to be formed in part from portions of the front wall of the container and in part from the bottom structure of the container. Claim 1 calls for the access cover to have a range of pivoting movement such that, in the open position of the cover, a free edge portion of the cover lies on the support surface substantially in the plane of the back wall of the container, to form a receiving surface for the reception of components of the

construction toy set and to facilitate a sweeping movement of said components from said support surface onto the first portion of the access cover.

The claimed concept is entirely foreign to the prior art references, and cannot be derived from a tortured reconstruction of the references, made only in the light of the applicant's disclosure, to generate a basis for rejection.

The primary reference, Hatfield et al. 3,271,092, discloses a specific form of display case for displaying multiple trays of collectible items. The Examiner proposes to reconstruct the Hatfield reference by converting the top and bottom walls of the Hatfield display case to front and back walls. This, of course, destroys the entire purpose of the Hatfield reference, which is to provide a display case in which a series of display trays may be partially withdrawn horizontally and displayed in a step-wise fashion.

The Examiner proposes that the Hatfield et al. device be reconfigured to make the top wall 12 a bottom structure, which would require the handle 46 to be removed and placed on the opposite wall 14. At that point, the pivoting cover would be formed in part by the bottom structure, but would be inoperative for the purposes of the applicant's invention (as well as for the purposes of the reference patent itself).

Amended claim 1 calls for the access cover to have a range of pivoting movement such that a free edge portion of the open cover lies on the support surface, substantially in the plane of the back wall, both to form a receiving surface for the reception of components of the construction toy and to facilitate a sweeping movement of such components from the support surface onto the first portion of the access cover. Nothing of the kind is suggested by the Hatfield et al. reference. In this respect, it is not permissible to simply totally reconstruct a reference, making it useless for its intended purposes, merely to meet terms of the applicant's claims. There is nothing internally of the Hatfield et al. reference which would suggest doing any of the reconstructions proposed by the Examiner. The only suggestion for doing that comes from the applicant's own disclosure.

The same general comments applied to the Husby Patent 3,451,580, which is intended specifically to house a fire extinguisher, and could in no way be reconstructed from within its own teachings to derive a "sweeper box" for holding individual components of the multipart construction toy and facilitating their sweeping recovery into the open access cover at the end of a play session. There is nothing in the Husby '580 patent that illustrates or even remotely suggests the concept of providing for the access cover to pivot to a position in which a free edge portion, formed by a portion of the front wall, lies on the support surface in order to accommodate a sweep-up of component parts lying on that surface. In the Husby structure, whichever part might be considered to be a "cover" in Figs. 3-5 (presumably the large or "movable" half 21), there is not the slightest hint of a

teaching that the cover, when fully opened, would provide a “free edge portion” lying on a support surface to facilitate sweep-up action of the component parts of the construction toy set.

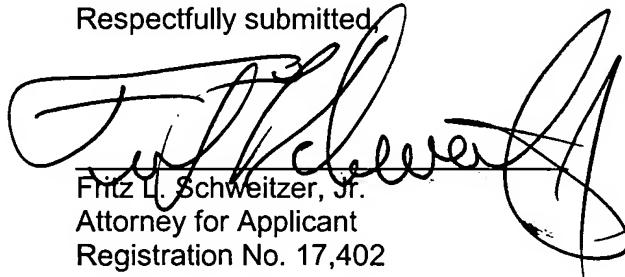
The Examiner proposes to combine Parmater et al. 2,983,367 with Hatfield et al., with respect to claims 5, 6 and 9. Parmater et al. is completely irrelevant in that no portion of its access cover is formed by the bottom wall. In the applicant’s structure, the bottom structure, in a region adjacent to and rearward of the second portion of the access cover, is recessed in order to accommodate the reception of the second portion of the access cover, when the cover is pivoted to an open position. The structure is evident in Fig. 2 of the drawings, and nothing remotely resembling such structure is shown or suggested in Parmater et al. ‘367. It is not clear what the Examiner refers to in indicating that Parmater et al. shows a bottom structure “having a recess.” Presumably, it is either the space between the projections 14, or the internal receptacle formed by the container. In either case, there is nothing that corresponds to the recess specified in claim 5, which is “to accommodate the reception of said second portion [of the access cover] when the access cover is pivoted about said access to an open position.”

Applicant submits that there is no proper basis for combining Parmater et al. ‘367 with Hatfield et al. It is not clear what features would be combined, or to what end result. Moreover, there is clearly no internal teaching in either Hatfield et al. ‘092 or Parmater et al. ‘367 that one could or should be combined with the

other. It is clear that any such suggestion comes only from the applicant's own disclosure.

The Examiner is thus requested to reconsider the rejection of claims 1-6 and 8-11 in the light of the amendments thereto and in view of the applicant's comments with respect to the prior art relied upon.

Respectfully submitted,



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